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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,182	07/11/2001	Albert C. Lardo	56245	1162

21874 7590 06/07/2005

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EXAMINER

SHAY, DAVID M

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/904,182	Applicant(s) LARDO ET AL.	
	Examiner david shay	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on February 24, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-29,31-41,48-50,58 and 59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-29,31-41,48-50,58 and 59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>September 3, 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 20, 21, 24-29, 31, 32, 37-41, 48-50, 58, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motamedi in combination with Swanson. Motamedi teaches employing various methods, including photodynamic therapy to destroy tissue which causes arrhythmias. Swanson teaches that various means can be used to destroy tissue which causes arrhythmias and that various methods may be employed to locate the treatment device at the site. It would have been obvious to the artisan of ordinary skill to employ the phototherapeutic treatment of Motamedi in the method of Swanson or to employ the guidance technique of Swanson, which can include MRI; the energy application, which can include transmission of the tissue destroying energy through intervening media in contact with the tissue, to which the energy is essentially transparent; and the application to atrial fibrillation in the method of Motamedi, thus producing a method such as claimed.

Claims 22 and 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Motamedi in combination with Swanson as applied to claims 20, 21, 24-29, 31, 32, 37-41, 48-50, 58, and 59 above, and further in combination with Altman. Altman teaches ablating to isolate the pulmonary vein to treat arrhythmia. It would have been obvious to the artisan of ordinary skill to ablate tissue so as to isolate the pulmonary veins, since this is a source of arrhythmia, as taught by Altman, thus producing a method such as claimed.

Claims 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motamedi in combination with Swanson as applied to claims 20, 21, 24-29, 31, 32, 37-41, 48-50, 58, and 59 above, and further in combination with Leone. Leone teaches a porous balloon for delivering

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a photodynamic therapy substance. It would have been obvious to the artisan of ordinary skill to use a porous balloon to deliver the photodynamic therapy substances in the method of Motamedi et al, since Motamedi et al provide no particular delivery method, thus producing a method such as claimed.

Applicant's arguments with respect to claims 20-29, 31-41, 48-50, 58, and 59 have been considered but are moot in view of the new ground(s) of rejection.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to david shay at telephone number 571-272-4773.



DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330